

## Restructuring Foreign Worker Policy and Community Transformation in Malaysia

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# Restructuring Foreign Worker Policy and Community Transformation in Malaysia

*Mohd Amar Aziz, Noor Hadzlida Ayob  
& Kamaruddin Abdulsomad\**

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**Abstract:** »Die Restrukturierung der Arbeitsmigrationspolitik und Transformation der malaysischen nationalen Gemeinschaft«. Malaysia is one of the most rapidly growing economies in Asia and is blessed with foreign workers inflow to sustain the economic growth process. However, the strong national sentiments among the local community, which harbors ill perception towards the foreign workers, lead to regrettably vague policies concerning foreign workers. As far as this issue is concerned, Malaysia needs to reform the policy regulations so that foreign workers will be able to integrate into the economic transformation of the country. The main objective of this paper is to analyze the current regulations regarding foreign workers policy in Malaysia. Arguably, foreign worker regulations can be improved by referring to Malaysia's past experience and copy the models of other foreign-workers-friendly countries. A process-oriented methodology was adopted in this study to understand the issues associated with foreign workers, community transformation, and policy implementation. The result of this study shows that superior implementation and enforcement of foreign labor regulations would lead to harmonization and transformation of the community.

**Keywords:** Foreign workers, policy, community transformation, process-oriented, capability approach, path-dependence, socio-cultural, migration, Malaysia.

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## 1. Introduction

Two major perspectives are often highlighted in discussing the foreign workers issue, either they are beneficial to the host country or the country needs to bear the extra cost that comes with them (Tezuka 2005; Ajis et al. 2014). Considerations on those two factions will determine how the national policy regarding foreign workers will be formulated (Nagayama 1996; Gurowitz 2000). On the

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other hand, labor shortage especially in three D (dangerous, difficult, and dirty) industries has become a 'stylized fact' and often used as the main argument to increase the foreign workers supply. In addition, lower costs with the same productivity outcome is another common factor that has been used to support the argument to increase the flow of foreign workers to Malaysia (Noor et al. 2011).

Meanwhile, security issue, sovereignty, and over-dependence on foreign workers are other arguments used to oppose the foreign workers inflow (Abdul-Rahman et al. 2012; Ajis et al. 2014). These two never-ending clear-cut perspectives make the implementation of foreign worker policies in Malaysia remain ambiguous. Gurowitz (2000, 863) stated that "Malaysia needs these foreign workers, but local communities do not want them." These two contrasting perspectives reflect the current government policy on foreign workers, where the government must educate the local communities and provide more information regarding the costs and benefits of foreign workers towards the economic development process. This would lead to effective implementation and enforcement of the foreign worker regulations.

Due to unclear policy, foreign workers are frequently subjected to human rights violation and treated as second-class population (Piper 2004; Gurowitz 2000). This phenomenon can create undesirable social unrest, social exclusion, and inequality within the national communities<sup>1</sup> in Malaysia. Benefits from cheap labor may turn into high costs in the near future, while the current costs may escalate if the human rights aspect is neglected any longer in the community transformation. From this point of view, issues in the implementation of foreign worker policy in Malaysia deserve a critical exploration in order to understand the community transformation process in Malaysia.

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## 2. Perspective and Theoretical Framework

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From a researcher's perspective, we consider ourselves as supporters of a critical paradigm perspective (Creswell and Miller 2000), sometimes also known as the transformative paradigm (Mackenzie and Knipe 2006; Creswell 2003), in order to explain the development process and the transformation value of Malaysian national communities. As stated by Creswell and Miller (2000, 127), the researchers' critical paradigm lens "reflect[s] on the social, cultural and historical forces that shape their interpretation" of the transformation agenda (Creswell 2003). Therefore, to clearly define this perspective, which will enable us to shape our interpretation, we proposed a theoretical framework that consists of three

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<sup>1</sup> National communities refer here to the ethnical plurality of the Malaysian citizens. It must be noted that Malaysia is a multinational-state, in contrast to nation-states. According to Shamsul and Daud (2006), Malaysia has also been called the "state-without-nation" because of its plurality of national identities.

theories, which are path dependence (Mahoney 2000; Mahoney and Schensul 2006), socio-cultural network (Onaka 2013), and capability approach (Sen 1999). The aforementioned theories can be considered to guide this research towards a process-oriented methodology (Baur and Ernst 2011).

1. Path dependence is an idea that tries to explain the continuous use of a product or practice based on historical preference or use. This type of *middle-range* theory is used to understand and analyze the socio-historical or geographical context (Baur and Ernst 2011). In terms of definition, path dependence is typically defined as “history matters” or “the past influences the future.” However, Mahoney (2000, 507) argued that such definitions “led scholars inappropriately to understand path dependence as a form of analysis.” Mahoney and Schensul (2006) later elaborated six preferable definitions<sup>2</sup> to understand path dependence and came to conclude that scholars may profit from the choices of different definitions (see: Mahoney and Schensul 2006).

In this study, we prefer to apply the definition proposed by Mahoney (2000) that defined path dependence as a contingent historical event with reactive sequences. As argued by Mahoney and Schensul (2006, 467), reactive sequences can be imagined as “which event A leads to event B which leads to event C and so on until event Z is reached.” This illustrates the causal effects from each event that are reflected on a new event until it finally explains the outcomes. Thus, why Malaysian communities needed foreign workers but later did not want them anymore, will have to be analyzed through historical events and the way the policy was implemented. Part 3 of this article, entitled “foreign workers from the colonial period to the present” discusses the historical events that occurred in Malaysia. In terms of historical policy analysis, Kay (2005), however, criticized the use of path dependence for policy study. Even though there are advantages to understand policy through its historical context, path dependence is a theory-laden process (Mahoney 2000) that cannot comprehensively explain the insightful aspects of communities. Hence, the socio-cultural network must play a role to fill the gap.

2. Socio-cultural network by Onaka (2013) has been applied to understand another side of the issues within the community that may be left out by the path dependence approach. It can be put under the ‘*theory of society*’ category because it seems to be intertwined with path dependence. Integration of both theories will produce comprehensive findings with detailed empirical investigations (Baur and Ernst 2011). The socio-cultural network emphasized the need for the social actors and the cultural elements to be linked together (Onaka 2013). Thus, this analysis investigated several aspects of the social actors in order to understand the link

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<sup>2</sup> Six definitions proposed by Mahoney and Schensul (2006) that potentially feature in path dependence are: 1. The past affects the future; 2. Initial conditions are causally important; 3. Contingent events are causally important; 4. Historical lock-in has occurred; 5. A self-reproducing sequence occurs; and 6. Active sequence occurs.

between the two elements. We attempted to hear the silenced voice of the foreign workers in Malaysia, perspectives from the higher officers in the immigration department, which can be considered as elite social actors, middle and lower ranked officers, which are considered as non-elites social actors, as well as from managers who hired foreign workers in their firms. Through these actors' perspectives, we then linked the cultures of the national communities in Malaysia to understand how these cultures are reflected in the policy changes and the issues regarding the rights of foreign workers. The collected empirical data will be compared with previous literature related to foreign workers issues. Details of this analysis will be discussed under the "issues on foreign workers and public awareness" in part 4 of this article.

3. The third theory is the capability approach, which was proposed by Amartya Sen (1999). In this study, the theory can be categorized as a general '*social theory*,' due to the concepts of the theory that become the center of the analysis (Baur and Ernst 2011). In explaining the concepts of capability, Sen (1999) in his book "Development as Freedom" argued that "we have to see the individual freedom as a social commitment" in the quest to achieve development. In other words, granting freedom to the people to gain opportunities, rights, or justice, will simultaneously enhance their capability to undergo a development process and strongly commit and contribute to society. Therefore, this approach serves as a framework for this study to grasp the reality and issues pertaining to foreign workers in Malaysia. Data on the foreign workers in Malaysia are then compared with the experience gained by first-tier, foreign-worker-friendly countries. Empirical experience from those countries on how they regulated the freedoms for their foreign workers, is one of the good examples that Malaysia can learn from to improve the current policy, as well as to develop a harmonious transformation of the community in Malaysia.

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### 3. Foreign Workers: From the Colonial Period to the Present

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Malaysia is a country with multi-ethnic and multi-cultural identities. Approximately half of the population consists of Malay ethnics, while the other half is composed of large minorities of Chinese, Indians, and indigenous people. All these diverse ethnicities constitute the national communities in Malaysia. According to Chin (2002), there are two major waves that created the diversity of the Malaysian population. The first wave took place in the colonial era when the British administration was unable to attract the local Malay to work in the rubber plantation and tin mining industries,<sup>3</sup> which led them to offer job oppor-

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<sup>3</sup> Rubber and tin industries were "the twin pillars" of economy in the colonial era (Chin 2002). According to Jomo and Rock (1998) British colonial authority generally considered their

tunities for immigrant laborers from China and India. Upon their arrival, the colonial management practiced the policy of 'divide and rule,' which separated the "ethnic groups according to employment and geographical space" (Chin 2002, 22).

As consequences of this policy, the Malay ethnics remained predominantly as peasants in the rural areas, while the Chinese were located in the urban areas to manage tin mining industries or small businesses. The Indian community was concentrated in the rubber estates. By the time of the Independence in 1957, the gates for immigration were closed, while Chinese and Indians emerged as permanent national communities in Malaysia. However, the integration process was still fragile due to the prevailing divide-and-rule policy. According to Chin (2002), less effort was made by the elites to restructure the fundamental economy of the community after the Independence, thus increasing the economic gap between the Malay and Chinese ethnics. Inequality in wealth and differences regarding integration between the two large ethnic groups in Malaysia led to serious ethnic violence in 1969. The incident was superficially triggered by the public dissatisfaction with the general election result in 1969. However, the underlying factors were mainly due to the persistent colonial policy that increased the inequalities between the two main ethnic groups (Horii 1991).

The government took a new initiative in 1970 and launched the New Economic Policy (NEP) to restructure the economy. The NEP (1971-1990) was designed to reduce poverty, restructure the socio-economic landscape, and harmonize the integration among national communities. In order to restructure the divisions of labor between the national communities, local Malays were encouraged to migrate to urban areas by entering the manufacturing industries and other services sectors. The second wave of international migrations to Malaysia was generated when palm oil and rubber plantation demanded more foreign workers (Chin 2002), when legal and illegal foreign workers from Indonesia and the Philippines were hired to fill the gap (Schrover et al. 2008). Before that, the state authorities had never responded or introduced an official regulation concerning the inflow of immigrant workers. The persistently high demand for foreign workers during the 1980s, especially in agriculture, domestic services, and construction sectors, forced the government to regulate the inflows. However, the new regulations were unsuccessful due to bureaucracy and 'red tape' issues, especially when the government changed the status quo in hiring foreign workers (Chin 2002).

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colonies as supplier of raw materials such as rubber, and importers of manufactured goods such as tin and bottled drinks.



The new National Development Policy (NDP) maintained the basic strategies of the NEP and added new dimensions<sup>4</sup> for the ten years period (1991-2000). In this period, more manufacturing sectors emerged, thereby increasing the demand for foreign workers (Dannecker 2005). More regulations concerning foreign workers were also introduced: Foreign workers who came to Malaysia were given a short-term contract of around five to seven years due to the high demand for labor force in several economic sectors. In 1994, the Malaysian government made a special agreement with Bangladesh to recruit workers on a yearly basis. The government set up agencies to manage the recruitment process (Dannecker 2005; Kassim 2005). Selection of the source countries for foreign laborers at that time was based on economic, social, and political settlements between the two countries (Kassim 2005).

**Table 1:** Number of Foreign Workers in Malaysia by Countries of Origin, 2000-2010

Origin	Year (Percentages %)										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Indonesia	74.8	74.7	73.8	73.9	69.7	66.7	62.8	56.1	52.6	51.7	43.6
Bangladesh	19.6	13.5	7.7	7.1	3.7	3.0	3.4	10.6	15.3	16.6	17.6
Thailand	0.3	0.3	1.9	0.8	0.4	0.3	0.7	0.9	1.0	1.0	0.9
Philippine	1.8	1.4	2.0	1.3	1.1	1.2	1.3	1.1	1.3	1.3	1.9
Pakistan	0.4	0.3	0.2	0.2	0.1	0.7	0.6	0.8	1.0	1.1	1.6
Myanmar	0.4	0.8	2.6	3.6	4.2	4.9	5.8	5.1	7.0	7.3	8.8
Nepal	0.1	5.7	7.7	8.2	10.2	10.6	11.4	9.3	9.8	9.5	13.8
India	2.3	3.1	3.7	4.7	5.4	7.4	7.4	6.9	6.3	6.4	5.2
Others*	0.3	0.3	0.3	0.3	5.3	5.0	6.5	9.1	5.6	5.0	6.4

\*Other source countries included Cambodia, China, Sri Lanka, Vietnam, and Laos.

The foreign laborers from Bangladesh appeared to be actually welcome and had smooth migration processes, but only in 1994 and 1995. After 1995, the agreement was halted when issues arose regarding the exploitation of migrants in the country. In 1997, the Malaysian government announced that all migrant laborers might be forced to leave the country by August 1998, as their permits would not be renewed. However, in late 1998, the government granted amnesty to undocumented foreign laborers and continued to extend the permits of most remaining laborers. The rest of them were deported (Gurowitz 2000; Dannecker 2005). An economic recovery in 1999 encouraged many foreign workers to come to Malaysia again, as 60 agriculture companies got the permission to employ 200,000 fresh foreign workers when the government pub-

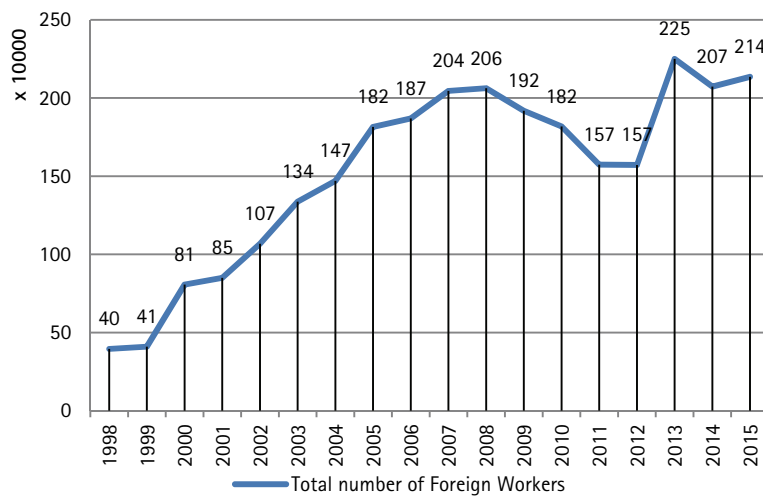
<sup>4</sup> NDP explicitly shifted the economic development of the NEP, with the objectives of: 1. Dealing with the remaining poverty problems by eliminating hardcore poverty, and at the same time reducing relative poverty; 2. Expanding the roles of private sectors to create more opportunities in economy; 3. Restructuring the *bumiputera* (Malay and indigenous people) in the modern economy sectors and; 4. Focusing more on human resources development (Abhayaratne 2004).

lished an approximately two billion Malaysian ringgit net loss of the country's revenue due to labor shortages (Chin 2002).

The government announced the National Vision Policy (NVP) that covered the development policy for the next ten years period, from 2001 to 2010, as a transition from manufacturing to knowledge-based economy. During this period, multi-ethnics foreign workers from several countries came to Malaysia to support the labor shortage in various sectors of the economy. Table 1 indicates the percentage of foreign workers in Malaysia based on their countries of origin from the year 2000 to 2010.

Figure 1 below indicates the total number of the foreign worker population in the country from 1998 to 2015. It was regarded as the third wave of foreign workers who came to Malaysia to fill the gap in various sectors of the economy.

**Figure 1: Total Number of Foreign Workers in Malaysia since 1998 to 2015**



The large foreign worker inflow to Malaysia during the third wave created a sentiment of insecurity among the national communities. There were over 2 million foreign workers in 2007 and 2008, surpassing the number of the third largest ethnic group in Malaysia (Malaysia Indian), which was only around 1.9 million people in 2008. The global financial crisis in 2008 further increased the unemployment rate of local citizens, who blamed the overdependence on foreign workers as one of the causes.

However, the global financial crisis did not only affect the locals, but it also affected the foreign workers when several industries reduced the need for foreign workers. Increased resentment from the public towards the foreign workers prompted the government to reduce resorting to immigrant laborers. The government stopped approving permits for new foreign workers, and doubled

the levies for the industries that engaged with them (Khoon and Mah-Hui 2010). As a result, the number of registered foreign workers was low when the economy recovered in 2010 and 2011. However, strict policies to reduce the number of foreign workers seem counterproductive if they cause an increase in the number of illegal foreign workers. This happened after the 1997 Asian financial crisis and again in 2013 when the government implemented the amnesty program for the illegal foreign workers. In 2013, approximately 1.3 million illegal foreign workers had registered with the amnesty program, with 600,000 who chose to continue to work, while others chose to go back to their home countries (Kassim 2014). This amnesty program explains the significant increase in the number of foreign workers in 2013 and why the number remains stable with over 2 million foreign workers in 2014 and 2015.

Based on historical analysis, it was obviously impossible to stop the foreign workers from coming due to the demand by industry and several economic sectors that are very dependent on them. Considering the strong demand, it can be concluded that foreign workers have contributed significantly to the Malaysian economic success at the macro level. Albeit the great contributions of these workers to the country, the negative sentiment towards them remains and the local communities continuously treat foreign workers as a second-class community, as the 'others,' or as a shadow community in the country. This sentiment was reflected in the policy implementation regarding them. Malaysia was previously ranked on tier 2 (watch list)<sup>5</sup> from 2010 to 2013 under the people trafficking report, and dropped to tier 3<sup>6</sup> in 2014. Malaysia then rose back to tier 2 (watch list) in 2015. The ranking fluctuation illustrates how little effort the Malaysian government made to achieve the minimum standard of Trafficking Victims Protection Act (TVPA).

Related to the people trafficking report, Nah (2012) suggested the Malaysian government apply a range of rights and freedoms to different categories of foreign workers. More rights and higher integration opportunities should be granted to skilled workers, while fewer rights and lower integration prospects were attributed to unskilled workers. This hierarchy of rights approach was introduced to gain a flexible control over the foreign worker inflows. Fewer rights and lower integration expectations are seen as a subtle way to force the lower skilled workers to leave the country if they consider themselves to suffer from rights abuses (Nah 2012). Further discussion on the resentment towards them based on several issues will be provided later in this article. This other aspect that prevents the public from mingling with the foreign workers will also

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<sup>5</sup> The tier 2 (watch list) comprises countries whose government does not fully comply with the Trafficking Victims Protection Act's minimum standard, but is making significant efforts to comply with those standard.

<sup>6</sup> Tier 3 refers to countries whose government does not fully comply with the minimum standard and is not making significant efforts to do so.

be investigated. As stated by Kay (2005), path dependence analysis cannot produce a comprehensive insight into micro level investigation and needs to be further supported by socio-cultural network analysis (Onaka 2013). Investigating the insightful aspects of integration at the root level helps to better comprehend relevant issues within the community.

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## 4. Issues on Foreign Workers and Public Awareness

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Several issues concerning foreign workers have reached public awareness. The increase of the negative issues relating to these foreign laborers seems to be a major factor preventing a smooth integration of foreign workers into the national communities. Issues such as sovereignty and public safety, local labor unemployment, as well as over-dependence on foreign workers were among the main aspects that prompted public awareness.

### 4.1 Sovereignty and Public Safety

The perception that foreign workers are often associated with crime issues and with the rising crime rate in Malaysia is already rooted deep inside the public mind. Frequent media highlights on criminal activities involving foreign workers made the public become more aware of public safety in the presence of foreign workers in the country. However, despite the numerous crime rate issues relating to foreign workers, only a few of them are actually involved in such crimes. Based on the statistics released by the police department, there were huge differences in the numbers of crimes involving foreign workers compared to local citizen, as less criminal activities were committed by foreigners than their proportion in the population (ten per cent). The remaining criminal cases involved local offenders (World Bank 2013).

Even though only a few foreign workers actually commit criminal activities, a genuine look at the crime statistics shows that they are still conceived as contributing towards the increasing crime rate in Malaysia. But in fact, fascinating findings by the World Bank (2013) indicated that the increasing number of foreign workers in Malaysia resulted in lower crime rates in the country. For every 100,000 entries of foreign workers, crime rate was reduced by 1.4 to 4.6 per cent, depending on the types of crimes. This finding shows that the economic condition of the country has an impact on crime rates. The increase of foreign workers ensures a stable economy and thus reduces the tendency to commit crimes, consistent with the financial problems amongst the population. In contrast, a reduction in the number of foreign workers would result in a declining economy, which would lead to an increasing willingness to commit crimes amongst the population due to harder living conditions.

Interestingly, the low figure of crime rates involving foreign citizens did not only occur in Malaysia, but also took place in other countries. As stated by Butcher and Piehl (2007), the reason of the small involvement rate among the foreign workers with criminal activities is due to their future-oriented mind when they decided to migrate to other country. They already contemplated the risk that they would be taking and uphold their hope to achieve better life conditions in the future. This kind of mindset contradicts the criminal mind, which is often present-oriented. Criminals tend to think about the benefits that they will receive in the present situation and fail to consider the potential punishment afterward. Thus, these different thinking patterns restrain foreign workers from being involved in criminal activities. The only exception is when they are desperate or already lost hope regarding their current life condition.

Interviews with elite, as well as with non-elite officers of the immigration department have produced the same answer on the criminal activities involving the foreign workers. They asserted that foreign workers are generally non-violent and tend to be less involved with criminal activities. The public perspective is highly affected by the media that associates criminal activities with foreign workers.

Despite constant blame, only few of them were involved in crimes. Even if foreign workers were keen on committing crimes, they did not resort to it once in Malaysia as they could already have committed the crime in their home countries. In their home countries, they have more networks, know the geographical aspects, and weak security enforcement compared to Malaysia makes them more liable to engage in crime. In addition, the immigration officers also shared their experience during enforcement, where foreign workers are found to be very obedient to the law and willingly comply with the Malaysian legal standards. This good demeanor is due to their objective to maintain their employment, obtain a good salary, and heighten their quality of life when they return to their home country. They did not enter the country to cause problems, but they may feel compelled to do so if they find themselves in a desperate situation (or have a network with the local citizens).

When employers who hired foreign workers in their firms were asked the question of criminal activities, the same answer surfaced again as foreign workers are mostly non-violent and rarely involved in the criminal activities. However, most employers highlighted that foreign workers wouldn't hesitate to leave if they find other jobs with better salary and working conditions. The workers will jump to new job offers if they have established connections with friends in other places and illegally try to get a new job. However, most of them end up being caught as illegal immigrants. Otherwise, the foreign workers often answered that they were immigrants in search of a better salary and life conditions, hence will always go for better opportunities and prospects. They already traveled from their native country to secure a job here, thus they will accept just any job with better pay as it was their main objective. They did not

have any intention to commit crimes here. However, they also stated that many of them did not know the exact procedure and regulations, and led some of them to be cheated and exploited by the employers or middlemen, and eventually blamed for not following the rules and regulations.

According to the information received from several social actors who have direct contact with foreign workers, it is safe to assume that foreign workers are less violent and rarely involved in criminal activities. However, in desperate situations such as being exploited by employers or middlemen, they are forced to risk getting involved in criminal activities. In turn, they will be blamed for their desperate conduct, only to be manipulated by the media, causing the public to see them as criminals instead of victims. In this context, the media seem to have a huge role and the required networks, compared to the social actors, to influence the public by generating negative images of foreign workers.

#### 4.2 The Increase of Unemployment for the Locals

More foreign workers lead to fewer jobs for the locals. However, this perspective seems to be inconsistent with several empirical studies. For examples, a study by Noor et al. (2011) indicated no causal relationship between employment of local and foreign workers as both worker groups can substitute for each other. On the other hand, Chang (2002) stated that the presence of foreign workers did not increase the unemployment level in a country. In fact, foreign workers may contribute to the increase in the number of jobs for locals in the long run, as detailed calculations from the World Bank (2013) indicate that every 1,000 additional foreign workers in each of the four major sectors (agriculture, mining, manufacturing, and services) in Malaysia will create an average of 1,427 more jobs for Malaysian citizens. Hence, based on these empirical findings, it can be stated that the increasing number of foreign workers does not affect the job opportunities for the locals in a negative way. On the contrary, it will produce and contribute to creating more employment for them.

The increasing number of jobs for foreign workers in the country seems to be associated with the increasing higher education levels among Malaysian citizens. The gap in the education level between local and foreign workers is likely to widen. Malaysians seem to continuously improve their education, while the majority of foreign laborers who came to Malaysia remains at the same level (World Bank 2013). Better education resulted in disinterest among the locals to get involved in 'the three D's' (difficult, dirty, and dangerous) industries. Due to this situation, the demand for foreign workers in those three D sectors has increased significantly (Noor et al. 2011). Based on this, Ehrenberg and Smith (2014) asserted that it is naive to assume that foreign workers will take away the jobs from the locals because the unskilled foreign laborers will work in sectors that are not filled by local citizens. Therefore,

recruitment of foreign workers will be balanced with the demand for them in every economic sector.

Related to this issue, a question has been put to the elites and non-elites of the immigration department, as whether their department needed to hire more staff to handle the increasing number of foreign workers in the country. Different perspectives were thrown in by either the higher-ranked or the non-elite officers. The higher-ranked officers stated that their department already had sufficient staff to execute the workload. In addition, their department had also been supported by other agencies such as the police and customs, thus that it was unnecessary to add more staff to their department. However, the officers at the implementation level disagreed with this statement. For them, their departments still faced staff shortage to handle the increasing number of cases. Even though the police and customs sometimes come to support with the immigrant issues, they have their own work scopes. Their department was still facing staff inadequacy to handle the border areas, monitor foreign workers in firms, carry out the administrative jobs, and participate in monthly courses or training. Hence, the implementation level still required more workforce as support for various duties. According to the non-elite interviewees, the increasing number of foreign workers needed to be counterbalanced by a greater deployment of immigration staff to make them more efficient.

Besides the increasing need for workforce in the public sectors, there were slightly different answers in the private sectors. Most employers who hired foreign workers responded to the question “is hiring foreign workers taking away opportunities for the locals?” by blaming the demanding local workforce for their choice. They claimed the locals were not interested in working in the firms that are dirty and dangerous (three Ds). Apart from that, some of them did not exactly agree with the statement that the increase in foreign workers would reduce the jobs for the locals. For them, increasing the number of foreign workers in their firms meant they needed to open vacancies for locals to handle the work that foreign workers were unable to do. They need locals who can speak and understand the local language, supervise the foreign workers, do networking jobs such as passport renewals, visa, transportation, shipment, and so on. Another interesting statement from the managers, which was based on their experience, was that the increasing number of foreign workers will increase the number of jobs for the locals, if not in their own firms, it will increase in other related sectors such as foreign worker agencies, insurance agencies, consultancy agencies, and so on, in which the workers are mostly local citizens.

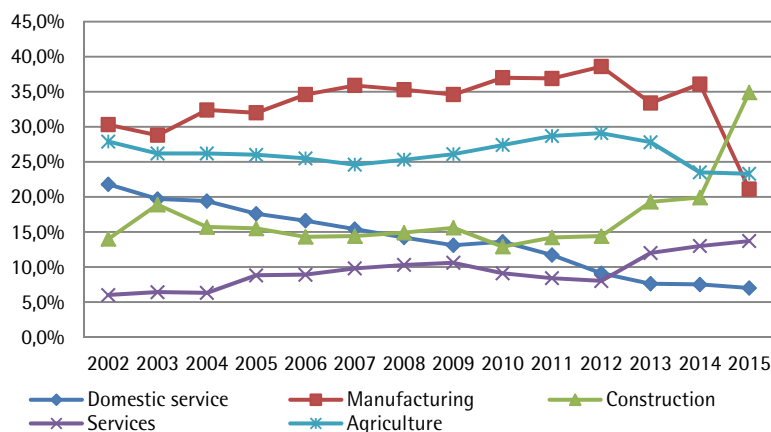
#### 4.3 Over-Dependence on Foreign Workers

The issues of over-dependence on foreign workers are always related to social problems and rising unemployment rate issues. Even though empirical study has proved that foreign workers have no significant impact on those subjects, over-

dependence can also be argued to produce work of poor quality due to the low-skilled workmanship on the one hand, and on the other, slow pace in technological advancement when the sectors involved rely too much on manual labor, and especially on low-skilled foreign workers (Abdul-Rahman et al. 2012).

However, as far as the quality aspect and slow technological pace are concerned, it is arguable that the quality of the productivity outputs are dependent on the types of sectors, sub-sectors, and different firm size. In the manufacturing and construction sectors, ten per cent increase of low-skilled foreign workers will increase the firm's productivity, while their activity in other sectors such as information and communications technologies (ICT) and plantation will reduce the productivity (World Bank 2013). This means the construction and manufacturing sectors still rely on foreign workers to increase their productivity. Thus, based on this findings, it can be stated that the issues at hand are not about the over-dependence on foreign workers, but are more likely on how the government manages the human resources in every sector and whether these sectors are in need of low-skilled, middle, or high-skilled workers. Hence, the government already took this issue seriously when there was a huge change in the distribution of the foreign labor forces in Malaysia's economic sectors. Figure 2 below indicates the percentage of foreign labor force in five sectors in Malaysia.

**Figure 2: Total Number of Foreign Workers by Sector, 2002 to 2015**



Based on the statistics, despite the rising number of foreign workers, the percentage of foreign workers who work as maids and in the manufacturing sectors show a decreasing pattern. Meanwhile, the ones in the construction and services sectors increased. The changing pattern can be attributed to the efforts undertaken by the government to redistribute the foreign labor forces into the most productive sectors. Therefore, it can be stated that Malaysia was not over-



dependent on the foreign labor. In fact, the country still experiences labor shortage. The most important aspect that needs consideration is the distribution of labor force to meet the needs of the appropriate sectors in order to generate high productivity outcome.

A similar answer was obtained when the over-dependence question was asked several social actors. The higher-ranked and non-elite officers in the immigration department stated that many industries in Malaysia are still dependent and need the foreign workers. However, they also emphasized that some sectors do not necessarily hire them. For example, one of the higher-ranking officers claimed that it was unnecessary for the local citizens to hire a maid. From her experience, maid hiring will induce more costs than benefits and does not generate much added value for the country. Conversely, the demand produces more problems such as rights abuse and exploitation issues, which can then lead maids to become violent and resist returning to their employers. For the construction, agriculture, and other 3D sectors, all the immigration officers agreed that our industries are in need of foreign workers because of difficulties to recruit locals to work in those sectors.

In accordance with this, managers who hired foreign workers also provided the same answer, claiming over-dependence was not the main issue. The real problem lies in their need for more laborers to support the operation of their firm and foreign workers seem to be the solution for the problem. They already tried to open job vacancies for the locals, but had difficulties to hire them. Even if the locals were hired, they did not last longer than the foreigners. As an example, managers in service sectors such as Indian and Thailand restaurants hired foreign workers because of their special skills to cook their cultural cuisines, and thought it were better to hire from their origin countries. When the chefs were foreign, the waiters also had to be foreign because the locals could not receive instructions from the foreigner and working together would only create conflicts. Thus, it is better to hire foreign workers throughout the whole organization to solve the issue.

#### 4.4 Rights for the Foreign Workers

When the numbers of foreign workers rose, negative images of them began to grow and the public started to see them as harmful to society. Foreign workers were seen as a burden to the country, and the way to reduce the public anxiety was by reducing their number. These negative perceptions then lead to bad treatment and exploitation of foreign workers. Many empirical research studies have highlighted the issues of abuse and exploitation of foreign workers, but the number has increased recently (Devadason and Chan 2014; Elias 2013; Ahsan Ullah 2013). However, even though the cases of bad treatment of foreign workers have risen, it was always shielded from the mainstream media and the foreign workers are still seen as problems instead of victims.

Rising public awareness and anxiety concerning foreign workers further worsened and went on to become a complicated political issue. The government is in a predicament as to the implementation of the foreign workers' protection law: The announcement is regarded as untimely, considering the people's grievance on the issues of poverty, rising costs of living, homelessness, and unemployment, which are all related to the local citizen. Hence, imposing the protection law for foreign workers so as to give them lawful protection for accommodations, good salaries, and better working conditions seems downright inappropriate. Confusion over the issues is the reason why less efforts were undertaken to protect the rights of the foreign workers, leading to the fluctuation in Malaysia's rank between tier 2 and tier 3 of the people trafficking report. Even though the social actors with direct contact with foreign workers are more positive towards them, discussion on issues regarding the welfare of the local citizens and the rights of the foreign workers are difficult to be conducted because of political influences. The public will argue that foreign workers will have more rights and better treatment than their own fellow citizens. Even though the government has declared that employees, including foreign workers, are protected by the law in Malaysia, foreign workers often have to get by without such protection (Piper 2004). Thus, in order to avoid debates on the government's incapability to handle these issues and on the small efforts regarding human rights protection, it was much easier to blame foreigners as the cause of several social problems such as increasing crimes, over-dependence, and increasing unemployment rates in the country.

From the discussion above, two conclusions can be made. Firstly, the foreign workers receive minor social assistance from the local authorities, and secondly, they are not competing for jobs as perceived by the locals. Most of the social actors with direct contact with foreign workers have positive perception of them and see them as sources that produce benefit for the country. However, local citizens have caused confusion for the political elites by playing off the rights of Malaysian citizens against those of immigrant workers. Even though it was officially declared that the human rights protection was statutory and acknowledged by trade unions, less efforts were made and trade unions are also less supportive on issues pertaining to the right of the immigrant workers.

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## 5. Learning from the Experience of Foreign-Workers-Friendly Countries

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Instead of learning and trying to counter these issues based on our own experiences, one of the ways to produce a harmonious community is to learn from other countries. In this study, experiences of two first tier countries, namely Canada and Sweden, were analyzed in order to understand how they managed to provide

the rights and freedom for their immigrant workers. This practice has contributed significantly to their economic development. Even though there are still some minor issues related to the exploitation of foreign laborers in both countries, they already comply with the minimum standard to eliminate trafficking. In addition, Canada has put a lot of effort in countering their trafficking issues as their government has specifically provided funding for a special service to that end. Meanwhile, Sweden has taken an innovative step to combat the remaining exploitation and trafficking issues in their country, as we will see further down. Such efforts are exemplary for Malaysia to learn by integrating the models of both countries so that it can benefit the cultural and social context of Malaysia.

## 5.1 Canada's Experience

Canada did not use quotas to control the number of foreign workers in their country. By their Temporary Foreign Worker Policy (TFW), Canada seems to have obtained major benefits and productivity from their foreign workers. The TFW program efficiently manages the supply of foreign workers and produces flexibility according to the country's need for low, middle, and high-skilled workers depending on the demands of different economic sectors. Canada did not use services such as intermediaries or private agents to recruit the foreign workers who are working in Canada. However, employers who seek foreign workers can directly submit their form to the Human Resources and Skilled Development Canada (HRSDC). When the government takes over an agency's role to provide the labor supply to the industries, it is able to reduce the exploitation of foreign workers or the issues of illegal workers due to fraudulent agents. In the process of hiring foreign workers, the employers need to go through a systematic procedure. In an early stage, they need to prove that they have already advertised their vacancy for the local citizens in the media such as newspaper, electronic media, or other alternative methods for a couple of weeks. This procedure is to secure the job opportunity for the locals and to prove that they have valid reasons to hire foreign workers (Government Accountability Office 2006).

After the submission, HRSDC will assess whether there will be a positive or negative impact on the industries. Other issues such as knowledge transfer or technological requirements in the industries will be taken into account during the assessment. A positive assessment will permit entries of foreign workers into the country, while a negative assessment will advise the industries to seek for local citizens or adopt advanced technology (Government Accountability Office 2006). After receiving a positive assessment for hiring foreign workers, the data from the assessment is shared with the database of Citizenship and Immigration Canada (CIC). CIC agents in the foreign countries will receive the assessment report from HRSDC in the database and will provide foreign manpower. When the foreign workers are accepted to work under the TFW pro-

gram, they obtain their work permit from the CIC agents. The process of hiring foreign workers shows the strong collaboration between the two government institutions. The collaboration is able to produce efficient implementation of the TFW policy in Canada.

In terms of rights, clear procedures have been described by CIC. These clear procedures show the Canadian government's effort to protect the foreign workers' rights. Among the major rights that are highlighted by CIC are employers' obligation to pay for the work and to ensure the workplace is safe, and the fact that they cannot take the passport or work permit from their foreign labors. In order to make the human rights protection accessible for the foreign workers, every province and territory in Canada has a CIC office that deals with the employment laws. The foreign workers who consider their rights have been abused can directly go to the CIC office, call, or contact CIC via the website or by email. Actions taken by the foreign workers to protect their rights by contacting the CIC office do not require their employer's permission and their safety is protected by law.

The management and the regulation of rights show that the Canadian government puts serious considerations into the implementation of the TFW's policy. Clear vision and agenda regarding the objectives of TFW's policy protect the foreign workers by law. Apart of that, the industries who hire foreign workers have assessments to show that their industries need to be supported by foreign labor forces, and justification to show they did not take advantage of the TFW's policy to reduce the locals' opportunities to take on the jobs in their industries.

## 5.2 Sweden's Experience

Sweden takes workers' rights seriously, partly because workers are one of the most flexible and essential factors of production. Sweden has been very successful in building its economic and industrial development after WW II. The long tradition of political regime ruled by the Swedish Social Democratic party has built the so-called "Swedish Model." The Swedish model is based on a very strong cooperation between the labor market, the production market, and the financial market. It is natural to insist that the very close contact between employers (capital owners association) and the trade unions in Sweden have benefited both capital owners and labor in the production market. Sweden lacked workforce to fulfill the need for its industrial expansion between the early 1950s and 1970s. Rapid economic growth through full expansion of the manufacturing sector from the 1950s until the late 1970s made Sweden seek foreign workers for its industries. More than 300,000 foreign workers from other Nordic countries such as Finland and Denmark, as well as from southern Europe, such as the former Yugoslavia, Greece, and Turkey, formed the largest groups of foreign workers in Sweden. In fact, a large number of foreign workers from the former Yugoslavia and Greece eventually obtained Swedish citi-

zenship or dual nationality. The citizenship is granted partly because they have been working and paying tax to the Swedish state (Klinthäll 2003; Scott 1999).

Sweden's long tradition of labor market regulation has resulted in many employee benefits being written in the laws. The so-called collective bargaining and cooperation between employers, employees, and unions have played a central role in Swedish economic development after the Second World War. Most Swedish workplaces are part of a collective agreement between unions and employers that regulates the wages and working conditions, including health and accident insurance. Collective agreements guarantee that the same rules are applied to everyone and establish the minimum acceptable terms of employment in each sector. The terms of collective agreements may vary between sectors. Swedish law forbids discrimination based on ethnicity, religion, gender, age, sexual orientation, or functional disabilities. If a law is broken, an employer may then be required to pay compensations. As a further protection of rights equality, employees may not be punished for filing a report of discrimination. The Equality Ombudsman is a central authority for anti-discrimination regulations.

Swedish employers, employees, and equipment suppliers, share the responsibilities to maintain safe working environments. These regulations are outlined in the Work Environment Act, including measures to restrict workplace hazards, prevent accidents, and protect the physical and mental health of the employees. Job security and stability are highly valued in Sweden. For this reason, a number of labor laws exist to protect employment rights, and ensure that employees are not dismissed without proper notice (Klinthäll 2003; Scott 1999).

Most foreign workers in Sweden are also part of a collective agreement between unions and employers, thanks to which they enjoy the same rights as Swedish workers (wages, working conditions, health and accident insurance). The collective agreement is a written contract and may contain terms of employment (wages, leave, and working hours). Such matters have been agreed upon between the employer and the employee (matters of negotiation). The Swedish experience has shown that very successful labor market regulation that benefits the foreign workers, employers, and economic development must be written into law. The government acted as a coach in the labor market to assure the benefits of employers and employees, simultaneously creating dynamic national labor market policies.

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## 6. Conclusion

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Malaysia, as an emerging economy, badly needs more workers to support its major economic sectors. The development and structural changes in the economy produce labor shortages in areas where the locals are unwilling to work. This gap needs to be filled by immigrant workers who ensure all economic

sectors are able to operate and thereby contribute to the country's productivity. Unfortunately, Malaysia is caught in a dilemma regarding its foreign labor policy as the country needs the foreign labor but the community seems to be skeptical about the option. In fact, the increasingly large presence of foreign workers creates public anxiety. The national citizens feel insecure when they see the unprecedented presence of foreign population in their community. This insecure feeling causes negative perception among the public and bad treatment of the workers. When the government attempts to provide protection for the foreign workers, political issues related to the welfare of the national citizens tend to arise. Issues such as homelessness, unemployment, poverty, and rising costs of living make the public think that foreign workers will gain more benefits and protection compared to locals, leading to misgivings regarding the foreign workers' policy. Eventually, the political elites opt to make less effort to protect the rights of foreign workers. In the end, the negative perception remains and the foreign workers become the subject to blame for several social problems. They are deemed to be the ones who cause the problems, instead of the ones who become the victims. Hence, most scholars who studied the immigrant workers' issues in Malaysia often seem to conclude that "Malaysia needs foreign workers but does not want them."

These classical issues of foreign workers in Malaysia have already been countered by the first tier foreign-worker-friendly countries, as discussed above. In order to initiate the community transformation within the national communities in Malaysia, we propose Malaysia could learn from the models of Canada and Sweden, who have benefited a lot from the productivity of their foreign workers. The clear vision of foreign worker's policy and the equal rights for every stakeholder illustrate the serious effort made by the Canadian and Swedish governments to promote development in their community. Thus, it can be concluded that harmonious community transformation in Malaysia must be based on superior labor market policy which can produce equal rights for all, including the foreign workers who are considered as part of the development contributors in the country.

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